

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION

No. 7:08-CR-00076-F-1

UNITED STATES OF AMERICA, )  
                                )  
                                )  
v.                            )                               O R D E R  
                                )  
                                )  
HUMBERTO RODRIGUEZ-CRUZ, )  
                                )  
Defendant.                  )

This matter is before the court on Humberto Rodriguez-Cruz's motion to modify his sentence [DE-41]. Rodriguez-Cruz requests that the undersigned "adjust" his federal sentence so that it runs concurrently with the State of North Carolina sentence he is presently serving.

Rodriguez-Cruz was indicted in a one-count indictment for Distribution of More Than 5 Grams of Methamphetamine, in violation of 21 U.S.C. § 841(a)(1). *See* Indictment [DE-1.] Rodriguez-Cruz entered a plea of guilty, pursuant to a written Plea Agreement [DE-28]. [DE-27.] On March 31, 2009, the undersigned sentenced Rodriguez-Cruz to 76 months' imprisonment and five years of supervised release. *See* Judgment [DE-36.] The sentence was set to "run consecutively to any prior sentence now serving."

Pursuant to 18 U.S.C. § 3582(c), a court may not modify a term of imprisonment once imposed, except on motion of the Director of the Bureau of Prisons, under limited circumstances that are not applicable in this case, or under Rule 35 of the Federal Rules of Criminal Procedure. Rule 35(a) provides that a court may correct an arithmetical, technical, or other clear error in a sentence within 14 days of the announcement of the sentence. Rule 35(b) provides that a court may reduce a sentence only on motion of the government based upon substantial assistance provided by the defendant after his sentence. Accordingly, the court does not have the authority

to modify Defendant's sentence in this case.

For the foregoing reasons, Humberto Rodriguez-Cruz's motion to modify his sentence [DE-41] is DENIED.

SO ORDERED.

This, the 12<sup>A</sup> day of March, 2013.

  
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JAMES C. FOX  
Senior United States District Judge